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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,027	11/02/2001	Laurent Scallie	ATL-PI	7510

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EXAMINER

JONES, SCOTT E

ART UNIT PAPER NUMBER

3713

DATE MAILED: 04/07/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/011,027

Applicant(s)

SCALLIE ET AL.

Examiner

Scott E. Jones

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/14/03, 10/30/03, and 1/20/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the amendment filed on August 14, 2003, the amendment filed on October 30, 2003 (First supplemental response), and the amendment filed on January 20, 2004 (Second supplemental response) in which applicant amends claims 1 and 15, cancels claim 6, amends the specification, and responds to the claim rejections by submitting an affidavit under 37 CFR 1.132 to support Applicant's position that the prior art cited by the examiner does not teach the method as more clearly defined in amended claim 1. Claims 1-5 and 7-20 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 7-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by i-O Display Systems H3D Terminator 3D Gaming Glasses.

i-O Display Systems H3D Terminator 3D Gaming Glasses discloses a system that creates a realistic 3-D game playing environment by plugging into the PC and existing 3D graphic card accelerator. The system, including lightweight stereoscopic glasses, converts the video monitor screen into a stereoscopic 3-D environment, where images -- including characters and shapes -- come to life before the player's eyes.

Several of the most popular PC video games are instantly supported by the system including Unreal Tournament, Tomb Raider, Star Wars, Need for Speed and Draken. The H3D Terminator also breathes new life into older classics such as Quake and Descent. The Terminator 3D glasses support a variety of graphics cards including those based on 3dfx and NVIDIA chipsets, and support DirectX(R), OpenGL(R) and Glide(R) game standards. The H3D Terminator has two models, wired or IR wireless.

H3D software drivers working with the Z axis depth information already available in nearly any modern DirectX, Glide or OpenGL game can create a stereo 3D image pair -- one image for your left eye and a slightly different image for your right eye. The H3D Terminator glasses ensure that each eye receives the proper signal. The combination left eye and right eye images for true depth perception cause virtual worlds to go from flat to almost real.

Additionally, the examiner cites the I-O Display Products Listing information in support of the article for the H3D Terminator 3D Gaming Glasses in order to physically show the various parts of the invention, such as, the glasses, software drivers, etc. Although the product literature was printed after the filing date of the invention, MPEP § 2124 allows for an exception of the rule in order to show that the characteristics of the prior art were known at the time of Applicant's invention.

#### *Affidavit*

4. The affidavit under 37 CFR 1.132 filed August 14, 2003 is insufficient to overcome the rejection of claims 1 and 15 based upon the rejection to claims 1-3 and 7-14 under 35 U.S.C. 102 (b) as being anticipated by Applicant's disclosure and the rejection to claims 4-6 and 15-20 under 35 U.S.C. 103 (a) as being obvious over Applicant's disclosure as set forth in the last

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Office action because: the examiner believes the affidavit is the opinion of the Affiant.

However, based on Applicant's amendment to the claims, a new rejection is provided above.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-5 and 7-20 have been considered but are moot in view of the amendment to the claims and the new ground(s) of rejection.

6. Applicant's arguments, see pages 2 and 4, filed August 14, 2003, and page 3, filed January 20, 2004 (Second supplemental response), with respect to the objection to the specification has been fully considered and is persuasive. The objection of the specification has been withdrawn.

7. Applicant's arguments, see page 3, filed October 30, 2003 (First supplemental response), with respect to the objection to the abstract has been fully considered and is persuasive. The objection of the abstract has been withdrawn.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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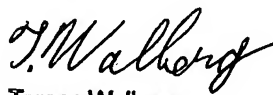
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sej



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